



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street M/C 4920 DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: **MAR 28 2016**

Release Number: **201645014**
Release Date: 11/4/2016
UFI Code: 501.03-00

Person to Contact:
Identification Number:
Telephone Number:
In Reply Refer to:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: **JUN 27 2016**

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter that your exempt status under section 501(c)(3) of the Internal Revenue Code (IRC) is revoked. Recognition of your exemption under IRC section 501(c)(3) is revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are operated exclusively for an exempt purpose or that you have been engaged primarily in activities that accomplish one or more exempt purposes within the meaning of IRC section 501(c)(3).

You failed to respond to repeated reasonable requests to allow the Internal Revenue Service to examine your receipts, expenditures, or activities as required by the Code sections 6001 and 6033(a)(1).

Contributions to your organization are not deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this

determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Paul A. Marmolejo
Acting Director, EO Examinations

Enclosures:
Publication 892



Department of the Treasury
Internal Revenue Service
324 25th St Rm 6025 Mail Stop 1112
Ogden, UT 84401

Date:
September 2, 2015
Person to Contact/ID Number:

Contact Numbers:
Telephone:

Fax:

Taxpayer Identification Number:
Form: 990
Tax Year(s) Ended: December 31, 20XX
December 31, 20XX

Certified Mail - Return Receipt Requested

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will

become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,



Margaret Von Lienen
Director, Exempt Organizations Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 1
Name of taxpayer	Tax Identification Number	Year/Period ended December 31, 20XX December 31, 20XX

Issue:

Should _____ a 501(c)3 exempt organization be revoked due to failure to respond and failure to produce records?

Facts:

_____ has not provided the requested information for the examination of the Form 990 for the tax year ending December 31, 20XX and December 31, 20XX. The organization received their approval for tax exemption in June 19XX. The organization was established for the purpose of _____

Exhibit A (below) provides a list of the Internal Revenue Service correspondence or phone contact made to you or your Power of Attorney (POA) requesting that you provide information pertaining to your Form 990 for the years ending December 31, 20XX and December 31, 20XX.

Summary of Exhibit A

Contact type	Correspondence sent / Phone contact	Date sent or called	Certified Mail? Y/N	Receipt Signed date or phone response
Letter	Sent Letter 3606C for tax year 20XX to _____	01-29-XX	N	03-24-XX Response with copies of the organization's Balance Sheet, Profit & Loss, and the General Ledger for tax year 20XX. Response was signed by _____
No contact	Unable to contact organization because of other priorities	03-24-XX thru 08-14-XX		
Phone call		08-14-XX		Left message to return call. _____ returned call and stated he can sign and bind the organization. He will review letter again and determine what _____

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				remaining information needs to be sent.
Phone call		10-08-XX		Left message for to return my call
Phone call		11-07-XX		Left message for to return my call
Phone call		11-10-XX		Left message for to return my call
Letter		11-13-XX		No response
Phone call		01-27-XX		Left message for to return my call
Letter	No response letter	01-27-XX	Certified mail	No response
Letter	No Response	02-26-XX		Returned as Unclaimed by USPS on 03-10-XX
Phone call		02-26-XX		Left message for to return my call
Letter	Letter EOCA with Form 886A	06-23-XX	Certified mail	Returned as Unclaimed by USPS on 07-23-XX

has failed to respond to the Internal Revenue Service correspondence for information pertaining to the Form 990 for the tax periods ending December 31, 20XX and December 31, 20XX.

Law:

501(c)(3)

§501(c)(3) Requires tax exempt entities be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes and to foster national and amateur sports competition.

§Reg 1.501(c)(3)-1(a) In order to be exempt under §501(c)(3) the organization must be both organized and operated exclusively for one or more of the purposes specified in the section. (religious, charitable, scientific, testing for public safety, literary or educational)

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit 1
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IRC § 6001 provides that every person liable for any tax imposed by the IRC, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Treas. Reg. § 1.6001-1(a) in conjunction with **Treas. Reg. § 1.6001-1(c)** provides that every organization exempt from tax under IRC § 501(a) and subject to the tax imposed by IRC § 511 on its unrelated business income must keep such permanent books or accounts or records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by IRC § 6033.

Treas. Reg. § 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

IRC § 6033(a)(1) provides, except as provided in **IRC § 6033(a)(2)**, every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Treas. Reg. § 1.6033-1(h)(2) provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and IRC § 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of IRC § 6033 and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

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Government's Position:

In accordance with the above cited provisions of the Code and regulations under IRC §§ 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information return (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Several attempts have been made to contact the organization. The organization was contacted via phone call to send information about the December 31, 20XX tax year since the organization sent the information for the December 31, 20XX period. The information for the December 31, 20XX was reviewed and other question arose that needed to be clarified. The organization was issued a second letter informing the organization of the expansion of the examination to include the December 31, 20XX tax year. In order to properly review the information provided I needed to review source documents for items listed in the General Ledger. The letter was sent by certified mail and the letter returned by USPS as unclaimed. Several phone calls and voice messages to contact the organization have not been returned. Using the rationale that was developed in Revenue Ruling 59-95, the Organization's failure to provide requested information should result in the termination of exempt status.

Organization's Position:

Several attempts to contact the organizations have been made by either letters or phone calls. The organization responded to the original letter sent on January 29, 20XX and phone call on August 14, 20XX. After the initial contact the organization has not responded to any attempts by either mail or phone for clarification of the original response and additional information for the audit.

Conclusion:

It is the IRS's position that the organization failed to meet the reporting requirements under IRC §§ 6001 and 6033 to be recognized as exempt from federal income tax under IRC § 501(c)(3). Furthermore, the organization has failed to establish that it continues to qualify for tax exempt status. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.

Form(s) 1120, U.S. Corporation Income Tax Return should be filed for the tax periods ending on or after December 31, 20XX.